



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

JUN 20 2011

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED:**

**7009 1680 0002 2886 4498**

Hilcorp Energy Company  
P. O. Box 61229  
Houston, TX 77002-1220

Re: Class I Consent Agreement and Final Order  
EPA Docket No. CWA-06-2011-4810

Dear Mr. Schoch,

This is to acknowledge receipt of the signed Consent Agreement and Final Order (CAFO) for the above referenced action. The U.S. Environmental Protection Agency hereby issues this CAFO, a copy of which is enclosed. The required penalty payment must be submitted in accordance with the terms set forth in the CAFO. Copies of the penalty payment check or confirmation of electronic funds transfer should also be sent to the persons named in the Final Order.

We very much appreciate your cooperation and patience in resolving this matter. If you have any questions, please contact Nelson Smith at (214) 665-8489.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Nelson Smith".

Nelson Smith  
Prevention and Response Branch

Enclosure

9689351



FILED

2011 JUN 20 AM 11:30

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGIONAL HEARING CLERK  
EPA REGION VI

REGION 6

IN THE MATTER OF

**Hilcorp Energy Company  
East Bay Batiste Facility  
Plaquemines Parish, LA**

Respondent.

**CWA SECTION 311 CLASS I  
CONSENT AGREEMENT  
AND FINAL ORDER  
UNDER 40 CFR § 22.13(b)**

Docket No. CWA-06-2011-4810

### LEGAL AUTHORITY

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("Complainant").

### CONSENT AGREEMENT

#### Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

Docket No. CWA-06-2010-4810

2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore vessels and from onshore facilities and offshore facilities, and to contain such discharges . . . ."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.

4. Through Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to DOI, responsibility for spill prevention and control, contingency planning, and equipment inspection activities associated with offshore facilities. Subsequently, pursuant to section 2(i) of E.O. 12777, the Secretary of the Interior redelegated, and the Administrator of EPA agreed to assume (MOU published as Appendix B to 40 CFR Part 112), responsibility for non-transportation-related offshore facilities located landward of the coast line.

5. EPA promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore or off-shore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as

EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the environment of the United States ("harmful quantity").

6. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. Respondent is a Corporation conducting business in the State of Louisiana, with a place of business located at 1201 Louisiana Street, Suite 1400, Houston, Texas 77002, and is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.

8. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of an offshore oil production facility, the East Bay Bastiste Facility, located in, Plaquemines Parish, Louisiana ("the facility"). The approximate coordinates of the facility are 29.45647° N and -89.84326° W. Drainage from the facility travels directly into and upon East Bay Batiste; thence to the Gulf of Mexico.

9. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 126,000 gallons.

10. East Bay Batiste and the Gulf of Mexico are navigable waters of the United States within the meaning of 40 CFR § 112.2.

11. Respondent is engaged in drilling, producing, gathering, storing, processing, refining,

transferring, distributing, using or consuming oil or oil products located at the facility.

12. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

13. The facility is an offshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

14. The facility is therefore a non-transportation-related offshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").

15. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

16. The facility began operating before August 16, 2002.

#### Allegations

17. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

18. On 02/02/2010, EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. Inspections not in accordance with 112.7(e)
- b. Training not in accordance with 112.7(f)
- c. No sump system in conformance with 112.11(c)
- d. Corrosion and deterioration of tank foundation (barge) and curbing constitute failure to provide appropriate containment in accordance with 112.7 (c)

19. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3, and impacted its ability to prevent an oil spill.

**Waiver of Rights**

20. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

**Penalty**

21. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$18,600.00**.

**Payment Terms**

Based on the forgoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

21. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$18,600.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

OPA Enforcement Coordinator  
U. S. Environmental Protection Agency  
Region 6 (6SF-PC)

1445 Ross Avenue  
Dallas, Texas 75202-2733

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number **CWA-06-2010-4810**. If you use the U.S. Postal Service, address the payment to:

U.S. Environmental Protection Agency, Fines & Penalties  
P.O. Box 979077, St. Louis, MO 63197-9000

- If you use a private delivery service, address the payment to:

U.S. Bank  
1005 Convention Plaza, Mail Station SL-MO-C2GL  
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn  
Regional Hearing Clerk (6RC)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

22. Failure by the Respondent to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 USC §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

#### **General Provisions**

23. The Final Order shall be binding upon Respondent and Respondent's officers,

directors, agents, servants, employees, and successors or assigns.

24. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

Hilcorp Energy Company

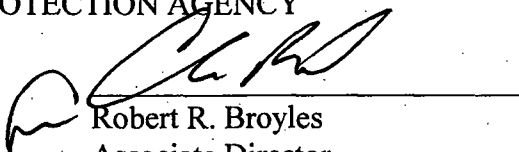
Date: 6/11/11



Michael Schoch  
Director  
Environmental Health and Safety

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 6/14/11



Robert R. Broyles  
Associate Director  
Prevention & Response Branch  
Superfund Division



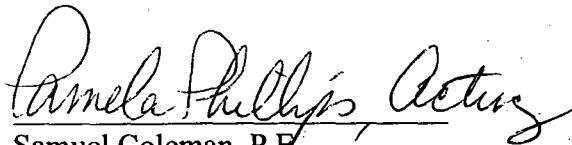
**FINAL ORDER**

Pursuant to Section 311(b)(6) of the Act, 33 USC §1321(b)(6) and the delegated authority of the undersigned, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 CFR Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date:

6/17/11



Samuel Coleman, P.E.

Director

Superfund Division

**CERTIFICATE OF SERVICE**

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 6-20, 2011, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,  
return receipt requested:  
7009 1680 0002 2886 4498

NAME: Mr. Michael Schoch  
ADDRESS: P. O. Box 61229  
Houston, TX 77002-1220

Frankie Markham  
Frankie Markham  
OPA Enforcement Administrative Assistant

CONCURRENCE ROUTING  
OPA ENFORCEMENT

TYPE OF ACTION:

Clean Water Act, Class I  
Consent Agreement and Final Order - Final

Hilcorp Energy Company  
Plaquemines Parish County, LA  
Docket No. CWA-06-2011-4810

(6SF-PC) Nelson Smith

*NSH* 6/9/11

(6SF-P) *R* Robert R. Broyles

*RR* 6/14/11

(6SF) *SC* Samuel Coleman

*SC* 6/17/11

(6SF-PC) Frankie Markham

2002-6090-MRQ-6-14-4

**SENDER: COMPLETE THIS SECTION**

- ☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- ☒ Print your name and address on the reverse so that we can return the card to you.
- ☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Hilcorp Energy Company  
P. O. Box 61229  
Houston, TX 77002-1220

7009 1680 0002 2886 4498

2. Article Number

(Transfer from service label)

7009 1680 0002 2886 4498

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *J Benham*

☒ Agent  
☐ Addressee

B. Received by (Printed Name)

*J BENHAM*

C. Date of Delivery

*6-22-11*

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

*11-4810*

3. Service Type

☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE

HOUSTON TX 770

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

22 JUN 2011 PM 4 1

- Sender: Please print your name, address, and ZIP+4 in this box •

MR. NELSON SMITH  
U.S. EPA (6SF-PC)  
1445 ROSS AVENUE  
DALLAS, TX 75202



7009 1680 0002 2886 4498

U.S. Postal Service <sup>TM</sup>  
**CERTIFIED MAIL <sup>TM</sup> RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark  
Here

T Hilcorp Energy Company  
P. O. Box 61229  
Houston, TX 77002-1220  
7009 1680 0002 2886 4498

PS Form 3800, August 2000

Instructions